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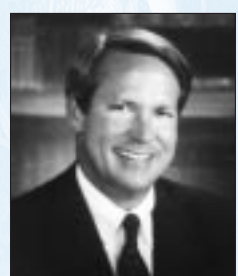
SPRING 2003

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**Handling Cases Involving
 Serious Injury**

- Automobile Accidents
- Aviation Accidents
- Insurance Litigation
- Medical Malpractice
- Nursing Home/HMO Abuse
- Personal Injury & Wrongful Death
- Products Liability
- Toxic/Mass Tort Litigation

***Airplane midair collision case settles
 for confidential amount***

On December 3, 1999, a horrible aviation midair collision occurred over the Municipal Airport at Deland, Florida. A Piper Cadet, flown by a 19-year-old young lady, Jane Doe, impacted with a twin-engine Piper Seminole just 300 feet above the end of the west runway as the single-engine Cadet was taking off.

Jane Doe was in the cockpit on this training flight with her instructor at 9:30 a.m. Ironically, the other plane contained an experienced 40-year-old student, who was already a commercial jet pilot, along with a 54-year-old instructor. As the instructors for both planes were considered the “pilots in command,” their responsibility to “see and avoid” other aircraft on this clear day was paramount to the safety of both of the flights. Unfortunately, neither instructor fulfilled that responsibility. As the planes came together, witnesses on the ground heard a loud explosion resonate over the airport and saw both planes careening to the ground in pieces. Tragically, Jane Doe could not be saved, as she sustained fatal injuries. Both instructors and the student pilot in the other plane perished as well.

The two flying schools involved in this crash were sought to be held responsible for the failure of their respective instructors. After a thorough investigation and pursuit of rigorous discovery, it was determined that the one flight school had a record of nearly 96 “near” midair collisions in the year before this accident happened. This was up from a recorded number of about 18 “near” midair collisions the year before. This information was not revealed to its student who perished. Furthermore, it was determined that the other flight school, which owned the Piper Seminole, had hired an instructor who had previously been warned on multiple occasions for falling asleep in the cockpit during flight lessons. One of those times when this instructor was accused of being asleep was while his student was “under the hood,” meaning that the student-pilot was flying “blind” by a vision-limiting device in order to practice instrument control of the plane. As it turned out, on this day, it appeared that similar maneuvers were being conducted by the Piper Seminole.

As the Piper Cadet in which Jane Doe was located was on “climb out,” it was extremely vulnerable with its view forward limited by its nose in the air as it gained air speed coming off the runway. Since the Piper Seminole was descending, it had the superior vantage point from which to see planes that were taking off. However, to this day, there is no explanation for why an experienced instructor and an experienced student-pilot would fly opposite to the direction of takeoff traffic at an uncontrolled (towerless) airport. There is also no explanation for why the instructor-pilot in the Piper Cadet failed to warn his student of approaching traffic. The instructor-pilot in the Cadet was only 23 years old.

After a year and a half of discovery, this case settled for a substantial amount paid to the parents of the 19-year-old student-pilot in the Piper Cadet. This young lady had a promising potential career as a pilot cut short by the carelessness of the two instructors involved in this horrible tragedy. In fact, all pilots in the air, as well as those monitoring the ground radio at this airport, testified that Jane Doe’s maneuvers with her airplane and announcements of her position on previous landings that day were exemplary in every respect. Since neither defendant was, at first, willing to admit fault in this matter, detailed radar accident reconstruction of the flight paths of both planes on a minute-by-minute and second-by-second basis was done to outline the trajectories both planes had taken and to determine whether the maneuvers made by each plane were appropriate under the circumstances. Ultimately, both defendants agreed to contribute to a substantial joint confidential settlement on behalf of Jane Doe’s parents as survivors under the Wrongful Death Act of the State of Florida.

Attorney **Richard D. Schuler** represented the family in the resolution of this case. The firm continues to represent other clients in aviation-related matters throughout the state of Florida.

We believe no one deserves to have insult added to injury.

TERRORISMÉ Éand its remedies

Americans have been the victims of domestic terror for the past several years.

1993—6 died in the first terror attack on the World Trade Center.

1995—167 people died from a massive truck-bomb explosion at the Alfred P. Murrah Federal Building in Oklahoma City.

1995-6—24 servicemen were killed in attacks in Saudi Arabia.

1998—228 people were killed in attacks on two east African U.S. embassies.

2000—17 U.S. sailors perished in an attack on the *U.S.S. Cole* in Yemen.

2001—A combined 3,042 people were killed at the World Trade Center, the Pentagon, and on an airliner.

Trial lawyers respond

Following the 9/11 tragedy, members of the Association of Trial Lawyers of America volunteered to provide free legal services to any family wishing to pursue justice through its Trial Lawyers Care program, a fund established by humanitarian legislation.

A recent award in a pending case

As our nation continues to address the issues of international and domestic terrorism, American victims of terrorism are obtaining satisfaction through the American justice system. In 1985, hijackers from the Iran-sponsored Hamas and Hezbollah terrorist organizations beat, tortured, and held six U.S. Navy divers hostage in Beirut for 17 days. Hijackers murdered one diver.

The servicemen and their families sued the Islamic Republic of Iran for damages based on its support of the terrorists. In April 2002, a federal trial court awarded the plaintiffs \$300 million in punitive damages and \$7.8 million in compensatory damages against Iran and its Ministry of Information and Security.

Our goal

An effective lawyer-client relationship

In everything we do, for each client, we strive to achieve the kind of relationship that will be mutually beneficial. What are its hallmarks?

Courtesy—We should both expect to always be treated with the consideration of good manners between partners.

Faith in judgment—From working together, we must come to mutually value a client's understanding of issues in the case and a lawyer's legal experience necessary to resolve them.

Involvement—To succeed, we must agree to cooperate to become full stakeholders in the legal processes and outcomes.

Respect—We both endeavor to do our best to appreciate each other's experience and skills, even when information or news that is shared is not what either wants to hear.

Support—The client and the attorney have a joint responsibility to make every effort to further the successful completion of the case.

Trust—Our goal is to establish and maintain a common confidence in each other's knowledge, ways of thinking, and sense of urgency about the matters at hand.



FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

- ✓ **Black & Decker** recalled 140,000 cordless electric lawn mowers in which an electrical component can overheat and catch fire.
- ✓ **Lawn-Boy, Inc.**, called back 36,000 Lawn-Boy walk-behind mowers. Mower mulch plates for Lawn-Boy can crack or break if struck by high-speed objects and injure operators or others.
- ✓ **Motorola, Inc.**, Broadband Communications Sector recalled one million DCT2000 digital cable boxes installed in 2002. Power cord pins at the back of the box may break, causing electrical shock to consumers.
- ✓ **Invensys Building Systems** wants 560,000 Siebe actuators returned for testing and/or replacement. The actuators control fire and smoke dampers in heating, ventilation, and air conditioning systems. The actuator spring mechanism can jam, prevent dampers from closing, and permit smoke, fire, and fumes to spread through a building's ventilation system.
- ✓ **Leifheit International USA, Inc.**, recalled 31,000 apple slicers/corers whose blades can separate and cut users' hands and fingers.
- ✓ **Fluke Corporation** has recalled 40,000 digital multimeters, which measure voltage, resistance, and current. Recalled units can take longer than normal to display AC voltages above 500 volts. Users who misinterpret the delayed reading for no voltage are at risk of thermal burns, shock, or electrocution.

Seniors and falls

One of the most common, and serious, problems facing retirement facility or nursing home residents is the risk of falls. Anyone who is responsible for a senior parent or elderly relative in a residence can collaborate with management and staff to reduce the potential for falls by their loved ones. They can...

- check to see that corridor and room lighting is sufficiently bright.
- periodically inspect and eliminate hazardous obstacles such as rugs, lamp cords, or other objects.
- schedule annual eye-health and vision-quality checkups.
- promote participation in exercise and other programs to maintain physical strength and improve balance.
- request that aides monitor residents after administering medications that may cause dizziness or confusion.
- encourage the elderly to use canes, walkers, or other mobility devices when needed.
- ask caregivers about the use of bed rails or restraints if unsteadiness or falling from bed occurs.

A resident's fall

After his mother suffered a fatal head injury after falling from her bed, a son won a jury verdict on her behalf in a lawsuit. He alleged that the nursing home failed to provide

safe care and services because it did not use appropriate bed-safety restraints, even though the staff was aware of her known tendency to fall out of bed.



LEGAL LEXICON

Many clients find legal terms puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, we'll address the meanings of several important legal terms related to employees and the workplace.

Affirmative action

State and federal regulations and policies intended to compensate members of minorities for unfair discriminatory practices that existed in the past.

At-will employment

Two parts: An employer's right to terminate workers without providing any reason; an employee's right to quit a job without explanation.

Disability benefits

Social Security Administration funds available to employees under age 65 who qualify under medical regulations describing an inability to work due to accident or injury.

ERISA

The Employee Retirement Income Security Act of 1974 is a federal law that requires employers to furnish employees with clear and comprehensive information about their pension rights. Court interpretation of ERISA has made HMOs and other managed-care insurers immune from lawsuits for injuries they cause by delaying or denying appropriate care. A federal Patients' Bill of Rights that would allow patients to hold HMOs accountable in court has been under consideration for several years.

Sexual harassment

Unwelcome sexual conduct on the job that makes workers feel that they are in an intimidating, hostile, or offensive workplace.

The ABCDs of skin moles

Everyone has moles—pigmented skin spots that usually pose no health threats. Physicians recommend examining moles twice yearly to monitor changes in appearance, which might indicate problems.

Medical experts recommend using the "ABCD" rule to determine if a mole needs a physician's attention. Evaluate each mole's...

ASYMMETRY Healthy moles are symmetrical. Both sides should look the same.

BORDER A mole's border should be round, not jagged or splotchy.

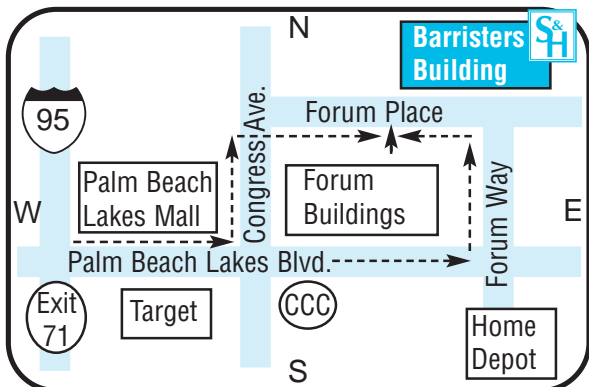
COLOR Normal moles are light to medium brown, not black.

DIAMETER Typically, healthy moles are smaller than the size of a pencil eraser and do not grow in size.

Some people are more prone to skin conditions than others. Individuals with more than 75 moles and skin that burns easily should pay particularly close attention to mole changes. If you have a mole that looks different than the last time you checked it, please ask your physician about it.

More than a mole

Even those who take great care of their skin can run into trouble. A 45-year-old patient was scrupulous about reporting skin disorders to his dermatologists. A year after a lesion appeared, doctors ordered a biopsy, which revealed it was not a hemangioma—a noncancerous vascular tumor—but a malignant melanoma. The patient sued and received a settlement, after alleging failure to diagnose in a timely manner, permitting the melanoma to metastasize to other organs.



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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Joseph H. Graves Insurance denials Safe workplaces

Our newest associate, **Joseph H. Graves**, graduated from Stetson University College of Law, St. Petersburg, Florida, in 1992, earning his J.D. (Doctor of Jurisprudence). He was also a member of the Dean's List and was an Honors graduate.



Mr. Graves has been actively involved in civil trial litigation for almost 10 years. He has considerable experience in defending and prosecuting civil cases. He has over 5 1/2 years' experience in representing injured plaintiffs in complex matters, including product liability, automobile accidents, and other types of personal injury claims.

Mr. Graves was born on June 24, 1963, in Leesburg, Florida, and currently resides in Vero Beach, Florida, with his family. He volunteers time to the Indian River Soccer Association and works as a coach for an under-6 girls recreational soccer team.

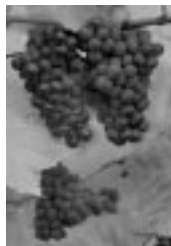
Although it is rare for businesses to make major claims against their commercial and casualty insurance policies, owners nonetheless understand the safety-net value of pure insurance protection.

Should large or even catastrophic losses occur, however, most businesses enjoy prompt review and fair payment from their insurers. The insurers' goal is to keep their commercial enterprise clients viable and successful.

When insurers refuse to pay fair commercial claims, business owners can obtain recourse through our justice system.

Sour grapes

A family co-owning a winery with a partner—who misrepresented the varieties of grapes grown—was sued for falsification. Their insurance agent assured them that if they provided proof that they had done nothing wrong, their insurance would cover losses and costs. Although they submitted documentation, their insurer denied coverage. They sued, alleging false promise and emotional distress. A jury granted them a significant award and punitive damages.



Employers are responsible for maintaining safe workplaces. Most do so to attract and retain good employees and to maintain high productivity.

Safety practices can take many forms, such as training to lift heavy objects correctly or pour and mix volatile products safely. Safety measures also include eliminating trip-and-fall hazards and improving equipment safety with guard fences and automatic kill switches.

Employers can redesign jobs, work stations, and facility areas to lessen repetitive motion injuries, decrease stress, and reduce noise levels.

Programs to identify and reduce violence in the workplace have been put into effect in many companies.

Bank robbery

A teller sustained injuries during a bank robbery shooting that left her a quadriplegic with more than \$10 million in medical expenses. Her attorney earned her a jury award verdict by demonstrating that the bank's security firm misrepresented the bank's safety, maintained an inadequate security system, and failed to install panic buttons for tellers.